

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
)	
Request for Appeal of USAC Decision)	Request for Relief
By Oakland Unified School District)	
Billed Entity No. 144227)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

FRN 2628845

Request for Appeal of the Universal Service Administrative Company's Decision

The Oakland Unified School District ("District") hereby files this appeal to the Federal Communications Commission ("Commission") seeking review of a final decision by the Universal Service Administrative Company ("USAC").¹ This request is seeking appeal of USAC's decision and waiver to 54.514(a) of the Commission's rules.² The District seeks appeal of USAC's decision to deny an extension of the invoicing deadline for FRN 2628845. The extension sought to include additional invoicing that was unknowingly excluded from the previously timely submitted invoice for Fund Year 2014/2015. Specifically, the previous invoice omitted a billed telephone number ("BTN") that had been properly approved and eligible for discount as confirmed and certified by the District and service provider. For the reasons stated herein, the District's request for a subsequent extension meets the standard for extraordinary

¹ 47 C.F.R. 54.719(b); 47 C.F.R. 54.722.

² 47 C.F.R. 54.514(a).

circumstances that warrant that the Commission grant an appeal and permit the District to submit invoicing inclusive of the BTN in an additional extension.

Background

In 2012, the District (under an existing On-Premise Priority One Wide Area Network contract with AT&T) opted to pursue an allowable upgrade for many of its circuits with those upgraded services slated to begin on July 1, 2012. Initial E-Rate funding for the 2012/2013 application (and associated funding request) was not approved until May 2013 (14 months after application submission and just six weeks' shy of the end of the 2012/2013 funding year). Funding approval for the 2013/2014 funding year (and the associated funding request) was received quite early in the funding year (October 2013). These unusually condensed timelines created a circumstance whereby submission of service provider invoice documentation for 2012/2013 was submitted very late and documentation for 2013/2014 was submitted relatively early in the funding year. Transition to the upgraded services involved not only the physical transition of circuits throughout District's 100+ sites but a billing/invoicing transition requiring the assignment of new circuit numbers, BTNs, and working telephone numbers. The physical transition and assignment of new circuit numbers, BTNs, and phone numbers resulted in the final invoice being staggeringly large. The staggeringly large invoice, timing of the receipt of the Funding Commitment Decision Letters ("FCDLs"), and submission of the subsequent service provider required documentation played heavily into the circumstances that led to the unknowing omission of a single BTN for two consecutive funding years.

Additionally, on or about January 8, 2013, the District's administrative building was destroyed by a flood. The flood resulted in the complete displacement and relocation of administrative staff among several different sites throughout the District.. Daily operations were

drastically disrupted. District files were displaced, and operations were moved to a temporary location for approximately ten months following the flood. It was during this emergency relocation that the District submitted invoice documentation for 2012/2013 and 2013/2014, submitted May 2013 and October 2013 respectively (the “Invoices”). The combination of an immense volume of invoicing for the two years coupled with records not being available due to the flood and subsequent relocation resulted in the District unknowingly omitting the inclusion of a single BTN in both sets of documentation. Subsequently, neither the District nor AT&T recognized the discrepancy regarding the BTN for submission of documentation for the 2014/2015 funding year. Only recently, as the District’s services are becoming centralized again, was the missing BTN brought to the District’s attention. The District’s recently discovered knowledge of the missing BTN is the basis for the District’s extension request for which the District now seeks appeal..

Extraordinary Circumstances Warrant Waiver by the Commission

Based on the facts stated above, the District hereby seeks appeal to USAC’s denial decision regarding the Commission’s invoicing deadline rule. We recognize that the Commission has a significant interest in efficient administration of the E-rate program, and that it is generally not in the public interest to provide additional invoice extensions beyond the current deadline extension rules.³ However, the Commission may exercise its discretion to waive a rule where the particular facts demonstrate both special circumstance that warrant a deviation from the general rule and that such deviation is in the public’s interest.⁴ Further,

³ *E-rate Modernization Order*, 30 FCC Rcd at 8966, para. 240.

⁴ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

extraordinary circumstances justify the filing of a subsequent invoice extension in excess of a year after the deadline.⁵

Here, the District believes that consideration for appeal is warranted because the single omitted BTN comes amid substantial unexpected disruption of service at the District, wherein the District had otherwise timely submitted the Invoices. The District, in good faith, believed that the submission of the Invoices was inclusive of the omitted BTN. Notably, the District did not fail to meet the deadlines for the vast majority of the Invoices – but instead only seeks waiver of the deadline extension rule in order to submit invoicing for the single omitted BTN. This is factually distinct from matters addressed by the Commission where entities failed to timely submit invoices entirely. This is an extraordinary circumstance where the combination of a particularly complex set of invoices had been required on an expedited timeline during an emergency transition between facilities due to an unforeseen and administratively disastrous flood.

Conclusion

Due to the extraordinary circumstances that resulted in omission of certain invoicing, the Oakland Unified School District respectfully appeals the USAC decision and requests the Commission waive the rules as they are set regarding Invoice Deadline Extension for the District to submit a revised invoice that includes the omitted BTN.

Respectfully submitted,

//ss//Marion McWilliams

⁵ *Hancock County Library Order*, 30 FCC Rcd at 4726, para. 9.

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